IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. No. 15565 of 2000

Date of Decision: 4.12.2007

Kulwant Singh and others

...Petitioners

Versus

State of Punjab and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

Present: Mr. R.K. Arora, Advocate,
for the petitioners.

Mr. H.S. Sethi, Advocate,
for respondent No. 4.

JUDGMENT

M.M. KUMAR, J.

The petitioners have approached this Court by filing the instant petition under Article 226 of the Constitution praying that direction be issued to the respondents to regularise their services keeping in view the instructions issued by the respondent-State and numerous resolutions passed by the Nagar Panchayat, Bhikhi-

respondent No. 4.

The undisputed facts are that the Notified Area Committee, Bhikhi, issued an advertisement in the Punjabi Daily 'Chardikala', dated 15.8.1993 (P-1), inviting applications for filling up 6 posts of Clerk and 2 posts of Sweeper. The appointments were stated to be temporary/ad hoc and on fixed salary of Rs. 500/- and Rs. 400/- per month respectively. The petitioners applied and they were interviewed on 21.8.1993. It has come on record that against 6 posts of Clerk, 37 candidates applied and 33 had appeared and against two posts of Sweeper, nine candidates applied but only 8 appeared. Petitioner Nos. 1 to 5 succeeded and were appointed as Clerks whereas petitioner Nos. 6 and 7 were appointed as Peons. Accordingly, orders of their appointments were issued on 2.9.1993 (P-3). Thereafter on 7.7.1994, Resolution No. 113 was passed unanimously deciding that the services of the petitioners alongwith some others be confirmed from that date and approval in that regard may be obtained from the Deputy Controller/Director, Local Bodies (P-4). Similar resolutions were passed, being Resolution No. 192, dated 8.6.1995 (P-5) and Resolution No. 16, dated 16.2.2000 (P-6). Again Resolution No. 267, dated 9.2.1996, was passed and services of only two persons, namely, Sarvshri Sukhdev Singh and Sardul Singh were regularised as Clerk in the pay scale of Rs. 3120-5160, although names of the petitioners were also recommended alongwith those persons.

In the written statement filed by respondent No. 4, the

stand taken is that there are no sanctioned posts of Clerk apart from two posts on which Sarvshri Sukhdev Singh and Sardul Singh have been regularised by the order of the respondent-State, dated 25.6.1999 (P-7). It has further been asserted that services of the petitioners could not be regularised until approval is given by the State Government. Reliance has also been placed on the judgment of Hon'ble the Supreme Court in the case of **Secretary, State of Karnataka v. Umadevi, (2006) 4 SCC 1**.

Mr. R.K. Arora, learned counsel for the petitioners has submitted that after the judgment rendered in Umadevi's case (supra) by Hon'ble the Supreme Court, the respondent-State of Punjab has issued instructions dated 15.12.2006 as a one time measure in respect of those employees who have completed 10 years of service. Learned counsel has read out paras 2 and 3 of the instructions and has claimed that the petitioners fulfil all the requirements and conditions of these instructions and deserve to be regularised. Learned counsel has further submitted that all the petitioners have by now completed about more than 14 years of service and they were recruited after following due process of law like issuance of advertisement and interview etc. Learned counsel has emphasised that the petitioners deserve to be regularised as best part of their life has been spent serving the Nagar Panchayat, Bhikhi-respondent No. 4. Learned counsel for the petitioners has also submitted that respondent No. 4 in its meeting held on 13.9.2006 has categorically pointed out that 5 Clerks and 2 Peons have been working on temporary/ad hoc basis

since 2.9.1993 and keeping in view the requirement of work these persons deserves to be confirmed. It has further been recommended that they should be given regular pay scales as is admissible from time to time.

Mr. H.S. Sethi, learned counsel for respondent No. 4, however, has submitted that the petitioners do not fulfil the conditions and requirements of the instructions because there are no sanctioned posts against which the petitioners could be regularised. He has also raised the question with regard to passing of type-test by the Clerks.

After hearing learned counsel for the parties and perusing the record, I am of the considered view that this petition deserve to succeed. It is true that in Umadevi's case (supra), Hon'ble the Supreme Court has deprecated the practice of offering employment on ad hoc basis and then regularising the services of such employees. However, one exception has been carved out in respect of those employees who have worked for 10 years or more on duly sanctioned vacant posts. The period of 10 years or more should have been without any stay order of the Courts or the Tribunals. On the basis of the aforementioned judgment, the respondent-State has issued instructions dated 15.12.2006. Moreover, the petitioners have been working on ad hoc basis/temporary basis for the last about 14 years without any order of the Court. The work of the petitioners as Clerks or Peon seems to be of perennial nature as is evident from various resolutions passed by respondent No. 4, like Resolution No. 192,

dated 8.6.1995 (P-5) and Resolution No. 16, dated 16.2.2000 (P-6). Therefore, it would be just and appropriate to issue direction to respondent No. 2 to take up the cases of the petitioners and consider them for regularisation keeping in view the views expressed by Hon'ble the Supreme Court in the cases of Umadevi's case (supra) and **Mineral Exploration Corporation Employees Union v. Mineral Exploration Corporation Limited, 2006(3) SCT 802**, as also the instructions dated 15.12.2006. Accordingly, respondent No.2 is directed to consider the petitioners for regularisation as per observations made above. The needful shall be done within a period of two months from the date of receipt of copy of this order.

The writ petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

December 4, 2007
Pkapoor